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Selectmen's Minutes 05-21-2008

TOWN OF ARLINGTON BOARD OF SELECTMEN

Meeting Minutes
 Wednesday, May 21, 2008
 7:20 p.m.

Present: Ms. Rowe, Chair, Mr. Hurd, Vice Chair, Mr. Greeley, Mrs. Mahon and Ms. LaCourt.

Also present: Mr. Sullivan, Mr. Maher and Mrs. Krepelka

Redevelopment Board members present: Andrew West, Chair, Roland Chaput, Bruce Fitzsimmons, and Christopher Loreti

Absent: Edward Tsoi

Also Present: Kevin O'Brien Director of Planning and Redevelopment
 Mr. John Worden, Secretary, Arlington Historic District Commissions

FOR APPROVAL

1. Discussion: Subdivision Control/Board of Survey
 Clarissa Rowe, Chair/John F. Maher, Town Counsel
 (tabled from 5/19/08 meeting)

Attorney Jay Wickersham, Noble & Wickersham LLP appeared before the Board to discuss the overview of the proposed Arlington Board of Survey Law/Home Rule Legislation/Subdivision Control Law. Attorney Wickersham said the intent of this proposed law is to create a fair and efficient system to review the impacts of small-scale residential subdivisions (fewer than 6 units), replacing the current Board of Survey law that was adopted in 1897, but without imposing the complexities and costs of the state subdivision control law, M.G.L. Ch. 41 Subsection 81K – 81GG (the "SCL").

The current board of survey law was adopted in 1897, and it has remained essentially unchanged ever since. The law has significant drawbacks. It limits the board's jurisdiction to the location, direction, width and grade of roadways, so that the board cannot review utilities, drainage, or environmental issues. The burden of review is placed on the Board of Selectmen.

Although the SCL does provide a broader scope of review, it too has drawbacks that make it less than desirable for the town. The SCL contains detailed and complex requirements for multiple stages of plan review, and for the recording of those plans, that are more appropriate for very large subdivisions with 100 or more lots. The SCL is not explicit on a board's ability to review environmental issues. Review under the SCL is entirely independent of zoning review, imposing the costs of multiple procedures on the same project. Finally, the SCL contains the longest provisions for vested rights of any statute in the entire country (8 years) – potentially frustrating the ability of the town to implement sound new land use policies through changes in its zoning.

For these reasons, the proposed law adopts the most valuable provisions of the SCL, but in a form that is much shorter, simpler, and more efficient. The proposed law contains 13 sections, as opposed to 23 sections in the SCL, and the text is only about one-third the length of the SCL. However, the law does adopt wherever possible the language of the SCL, so that all parties can look to current practice and prior court decisions under the SCL in interpreting the proposed law. Here are key provisions of the proposed law:

- The law is a regulatory system, requiring review and approval of developments by the Arlington Redevelopment Board (the "board"), in its capacity as the town's Board of Survey. A certified copy of the board's decision would be recorded with the registry of deeds, in the same manner as a zoning special permit.
- The law affects the same types of development as the SCL: subdivisions of land into two or more lots, where the lots do not have adequate access and frontage from an existing way. Like the SCL, the law would not require review of the subdivision of "approval not required (ANR)" lots that have adequate existing frontage.
- Like the SCL, the law would involve the review of roadways, utilities, drainage, and other site improvements. The law is more explicit than the SCL in addressing the protection of environmental resources, and in furthering the goals of the town's plans and policies.
- Developments that already are subject to board review under zoning, through a special permit or other process (including all residential projects with 6+ units), would consolidate their review with the zoning process, and the procedures and timelines of zoning would govern.
- The law provides for more limited vested rights of approved developments, compared with the SCL: approved developments would be protected against subsequent zoning changes for a period of three years from the date of approval.

The Board of Selectmen broached many subjects. Mr. Worden questioned the involvement of the Historical Commission in reference to the new subdivision law. Attorney Wickersham stated he would incorporate the Board and Mr. Worden's concerns in his final report to be reviewed by the Board of Selectmen before it is presented to Town Meeting. The Board of Selectmen thanked Attorney Wickersham for his input, John Worden and the Redevelopment Board for working together to bring this Article before Town Meeting.

Ms. LaCourt moved to table until May 28, 2008 at 6:00 p.m.

SO VOTED (5-0)

2. Discussion: Symmes Medical Office Building Site

Kevin O'Brien, Redevelopment Board

Mr. O'Brien stated that at a joint meeting on April 14th the Redevelopment Board and the Symmes Redevelopment Associates discussed bringing a resolution to Town Meeting to expand the range of uses that could be developed at the Symmes medical office-building site.

The Redevelopment Board asked the Symmes Redevelopment Associates to summarize its experience in marketing the site. The Redevelopment Board recommends that for the period ending December 29, 2008, we not change the range of uses. This means that SRA can develop a medical office building/wellness center which we interpret to mean a medical office building or a health club with medical offices.

Mr. O'Brien stated the Redevelopment Board is recommending that from now to December 29th, we expect the developer to develop (1) medical office building or (2) health club with medical offices. This requires no action by Town Meeting. After December 29th, if the Board wants to give the developer more time to develop the site, the Board will allow them to develop the two uses above or a fitness club without medical offices. The Redevelopment Board would have to ask Town Meeting to agree to this fitness club use.

The two Boards discussed and decided against the idea of allowing a wider range of uses. They thought that medical use should be pursued further meaning that in December 2008, the Arlington Redevelopment Board would have to decide whether to take the land back or let Symmes Redevelopment Associates continue to try to market it under the same conditions with no chance of widening the range until next year's Town Meeting.

Mr. Greeley moved no action and asked the Redevelopment Board to come before the Board of Selectmen after December 2008.

SO VOTED (5-0)

Mrs. Mahon moved to adjourn at 9:00 p.m. in order to attend Town Meeting.

SO VOTED (5-0)

A True Record: Attest

Marie A. Krepelka
Board Administrator

